

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

JETBLUE AIRWAYS CORPORATION and
SPIRIT AIRLINES, INC.,

Defendants.

Civil Action No. 1:23-CV-10511-WGY

**DECLARATION OF MARY GARTLAND IN SUPPORT OF MOTION TO IMPOUND
DOCUMENTS PRODUCED BY THE U.S. GENERAL SERVICES ADMINISTRATION**

I, Mary Gartland, make the following declaration under 28 U.S.C. § 1746.

1. My name is Mary Gartland. I am over 18 years of age. I am currently employed as the Director of the City Pair Program of the U.S. General Services Administration (“GSA”). I am familiar with the manner in which GSA administers the GSA City Pair Program (“CPP”). I am competent to testify. The facts stated below are true and correct and are within my personal knowledge. I understand that this declaration will be submitted in support of a motion to impound the following documents that GSA produced in this litigation (see table below), and the parties may seek to introduce as exhibits at trial in the above-captioned matter.

2. GSA is authorized to administer the CPP pursuant to the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 501 *et seq.* GSA developed CPP to provide discounted scheduled commercial air passenger transportation services to federal government travelers. It has expanded since its creation in 1980 to offer fares in over 13,391 markets in fiscal year 2024. Contracts are awarded on a line item-by-line item (informally

referred to as route-by-route) basis to certificated U.S. flag air carriers that participate in the program through a competitive bidding process. As a result of this process, CPP fares are around 53% lower than comparable consumer fully refundable fares. CPP anticipates saving taxpayers an estimated \$2.42 billion in fiscal year 2024 alone.

3. If airlines' bidding information were made publicly available, it would undermine the CPP's ability to administer a fair, competitive bidding process on behalf of government travelers. Allowing airlines, including Defendants, to learn what other airlines have bid would hinder GSA's ability to receive the best possible bids in the future. Airlines could use the data to reduce the discounts offered under future bidding cycles, without losing the award to the next-most competitive bid. This would harm GSA's ability to secure the best savings for the City Pair Program.

GSA Documents

Exhibit number	Bates #	Description
Documents Redacted in Entirety		
DX0055	GSA-AAB6-00002845	GSA spreadsheet – airlines' bidding data FY2021
DX0056	GSA-AAB6-00005040	GSA spreadsheet – airlines' bidding data FY2022
DX0057	GSA-AAB6-00005057	GSA spreadsheet – airlines' bidding data FY2020
Documents Redacted in Part		
DX0779	GSA-B6NK-00000216- 254	GSA presentation – City Pair Program FY22 Contract Pre-Award Briefing

DX0780	GSA-B6NK-00000255- 284	GSA presentation – City Pair Program FY23 Contract Pre-Award Briefing
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4. The first three exhibits on this list, DX0055-57, are spreadsheets reflecting the airlines’ bids in the City Pair Program. As I explained above, all of this information is highly confidential under applicable law and guidance, and which GSA protects from public disclosure in the ordinary course of business as its release would be damaging to the competitive bidding process and the future of the program. *See* 41 U.S.C. § 3505(b) (stating that the Federal Acquisition Regulation (“FAR”) shall include “[a] statement that any information received relating to commercial products or commercial services that is exempt from disclosure under [FOIA] shall not be disclosed by the Federal Government”); 48 C.F.R. §§ 5.401, 24.202 (FAR provisions forbidding agencies from disclosing information “requiring protection under Freedom of Information Act” from disclosure); 5 U.S.C. § 552(b)(4) (FOIA Exemption 4) (FOIA disclosure requirement “does not apply to matters that are . . . trade secrets and commercial or financial information obtained from a person and privileged or confidential[.]”).

5. The final two exhibits on this list, DX0779 and DX0780, are internal presentations and analysis of CPP data. We have proposed redactions to the presentation, which reflects GSA’s confidential process for analyzing fares in the CPP. GSA would be severely harmed by the release of this information for the same reasons that it would be harmed if the competitive bids themselves were released. The proposed redactions reflect confidential bid and source selection information, which GSA protects from disclosure in the ordinary course of business.

6. GSA has always taken great care to ensure that participants' competitive bidding information, as well as GSA's internal source selection process that leads to savings within the City Pair Program, remain strictly confidential.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 27, 2023.

MARY
GARTLAND Digitally signed by
MARY GARTLAND
Date: 2023.09.27
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